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In re Application of :
OSKARSSON et al. :
Application No.: 10/528,063 :
PCT No.: PCT/SE03/01444 : DECISION ON PETITION
Int. Filing Date: 16 September 2003 :
Priority Date: 16 September 2002 :
Attorney's Docket No.: 10400-000147/US : UNDER 37 CFR 1.181
For: WELDING ELECTRODE AND DEVICE FOR ITS :
MANUFACTURE :

This is in response to applicant's "Petition under 37 CFR 1.181 to Withdraw Holding of Abandonment", filed in the United States Patent and Trademark Office (USPTO) on 01 June 2007 alleging that applicant did not receive the Notification of Missing Requirements mailed on 09 January 2006.

BACKGROUND

A review of the application file reveals that the NOTIFICATION OF MISSING REQUIREMENTS was mailed by the USPTO on 09 January 2006. The notification indicated that an oath or declaration in compliance with 37 CFR 1.497(a) and (b) was required. Applicant was given two months to respond to the Notification or until 09 March 2006 with extensions of time (up to 5 months) available under 37 CFR 1.136(a). No response to the Notification of Missing Requirements was received and the application went abandoned.

On 01 June 2007, applicant filed the instant petition to withdraw the holding of abandonment along with a response to the Notification of Missing Requirements.

DISCUSSION

In order to establish that papers were not received, a petition under 37 CFR 1.181 with a proper showing is required. As set forth in the Official Gazette at 1156 OG 53, the petition must include the following: (1) a statement by the practitioner that the Office action was not received by the practitioner; (2) a statement attesting that a search of the file jacket and docket records indicates that the Office action was not received; and (3) a copy of the docket record where the non-received Office action would have been entered had it been received (the docket records must also be referenced in practitioner's statement). No petition fee is required.

Item (1) is satisfied with Practitioner's statement that the "Notification of Missing Requirements was never received." Item (2) is satisfied by the practitioner's statement attesting that a search of the file jacket and docket records indicated that the Office action was not received.

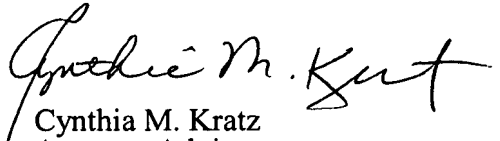
With regard to Item (3), applicant has provided the appropriate docket record for establishing nonreceipt of an Office communication, the record where all USPTO responses due on the due date for reply to the communication at issue (i.e., a listing of all replies due in the USPTO on 09 March 2006 for the present case) would be entered had it been received. Thus, applicant has provided the proper showing necessary to withdraw the holding of abandonment and the petition may be properly granted at this time.

A review of the executed declaration submitted on 01 June 2007 indicates that it is in compliance with 37 CFR 1.497(a) and (b) and acceptable.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to request to withdraw holding of abandonment is **GRANTED**.

The application will be forwarded to the United States Designated/Elected Office for further processing. The 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date is 201 June 2007.


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